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Car Dealer Gets 5 Years for Bilking G.M. of More Than \$400 Million

By LYNDA RICHARDSON

A former Long Island car dealer who admitted bilking the General Motors Corporation out of \$422 million in one of the largest frauds in American corporate history was sentenced yesterday to five years in prison.

John M. McNamara, 56, had not spent a day in jail since he pleaded guilty in 1992 to swindling G.M. by borrowing billions of dollars from it for nonexistent vans. The delay in sentencing was the result of his agreement to help Federal prosecutors uncover political corruption on Long Island, but his testimony in several bribery cases failed to secure any convictions.

Nonetheless, Judge Edward R. Korman of Federal District Court in Brooklyn granted the Government's request for leniency, departing from sentencing guidelines that called for 9 to 11 years in prison.

Mr. McNamara's five-year sentence, which he will begin serving on Oct. 1, is to be followed by three years' supervised release. He was also ordered to repay General Motors more than \$412 million in outstanding loans within three years of his release. General Motors has already recovered \$13 million from the sale of cars that were on Mr. McNamara's lots and the sale of dealership properties. It claims Mr. McNamara actually took \$425 million, \$3 million more than he has admitted to.

In sentencing Mr. McNamara, the judge said, "I always believe that, based on my own experience as a U.S. attorney, people who cooperate with the Government are vital to the success of law enforcement against those who have committed crimes."

The agreement with prosecutors allowed Mr. McNamara to keep \$1.8 million in assets and start a new company, even though he owes his creditors hundreds of millions of dollars. Once a ubiquitous presence in Port Jefferson, his hometown, where he was known for his extensive land holdings and his gifts to local charities, Mr. McNamara became reclusive after his guilty plea. But he continued to live in the area, in a rambling white house with an indoor pool.

In the prosecution's request for leniency, Loretta E. Lynch, an assistant United States attorney,

wrote that Mr. McNamara's cooperation had been fruitful, providing "substantial assistance in a number of important prosecutions within the Eastern District of New York."

"He has provided important substantive information about the nature and the scope of public corruption on Long Island," the prosecutor wrote. "The resulting trials, despite their verdicts, have increased public exposure to and knowledge of the inner workings of local government."

But Robert Gottlieb, a criminal defense lawyer who ran unsuccessfully for district attorney in Suffolk County in 1989, said yesterday that the Government had had "no choice but to make this deal with the devil."

"What was somewhat surprising, even today," Mr. Gottlieb added, "is the extent to which he has been able to profit by his activities, and that certainly hurt the Government. I don't think there's any question that they are embarrassed."

"This is a case where the Government was willing to make an extraordinary deal with a con man in the hopes of obtaining convictions in political corruption cases and they obviously failed to do that."

The leniency request was challenged by the General Motors Acceptance Corporation, the financial arm of the auto maker, which urged the judge to impose a "substantial prison sentence."

A lawyer for General Motors, Charles E. Brown, said yesterday that Mr. McNamara deserved at least the sentence he had received.

"Mr. McNamara is an admitted criminal who took advantage of individuals and associates through deceit and theft," Mr. Brown said. "He abused the bond of personal trust he developed."

A G.M.A.C. spokesman in Detroit, Terry Sullivan, said the auto maker had filed a civil lawsuit this week against Mr. McNamara that seeks up to \$1.2 billion in restitution and damages.

In court testimony, Mr. McNamara admitted that over the course of eight years, he had obtained \$6.2 billion in loans from G.M.A.C. for vans that did not exist. The fraud was discovered by G.M.A.C. auditors, who realized that his claims of shipping thousands of vehicles overseas per month were false.

During the bribery trials in which Mr. McNamara was the Government's star witness, defense lawyers forced him to explain in detail how he had lied, cheated and forged documents to deceive G.M.A.C.

Mr. McNamara used the money to keep up payments on his loans to G.M.A.C.; by borrowing increasing amounts, he kept one step ahead of payment-due dates. At the same time, he bought gold mines, other companies and land development projects, and traveled the globe in his own nine-seat jet. The scheme collapsed in the recession of the late 1980's. The pressure of keeping up payments, prosecutors said, forced him to bribe local officials into quickly approving his building

projects without requiring costly changes.

Although Federal agents seized most of his holdings, the authorities allowed him to retain \$1.8 million in real estate. He also disclosed in court this year that he had not been forced to give up \$300,000 he had put in trust for his 16-year-old daughter or \$138,000 he had made from various business ventures last year, including the sale of vans in Germany.

Mr. McNamara has also been permitted to travel throughout the New York metropolitan region and to take vacations in Florida.

His lawyer, G. Michael Bellinger, expressed disappointment with the sentence and questioned the restitution order, calling it "a little bit unreasonable."

In the cases Mr. McNamara aided, two former councilmen, Donald Zimmer and Anthony Losquadro, were acquitted last year on charges that they had taken bribes from Mr. McNamara in return for favorable votes on his real-estate projects. Jurors said that they had doubted Mr. McNamara's credibility. And in a third case in March, a jury acquitted Anthony Aliperti, a former member of the Brookhaven Planning Board, of extortion charges but deadlocked on conspiracy and perjury charges. The judge declared a mistrial on those counts. An earlier trial of Mr. Aliperti also ended in a mistrial.

The civil lawsuit by G.M.A.C. alleges that Mr. McNamara "siphoned off money and assets from his various businesses and transferred assets in real properties to various persons in order to shield assets and defeat his creditors," Mr. Sullivan said.

He added that the lawsuit had been delayed at the request of prosecutors to avoid interfering with the bribery trials.